

House Bill 1385

By: Representatives Cole of the 125th, Chambers of the 81st, Bearden of the 68th, and Day of the 163rd

A BILL TO BE ENTITLED

AN ACT

To amend Part 2 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to temporary disability compensation programs, so as to authorize certain payments to law enforcement officers, jailers, and firefighters injured in the line of duty; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to temporary disability compensation programs, is amended by revising Code Section 45-9-102, relating to payment of compensation for 12 months to law enforcement officers and firefighters disabled in the line of duty, benefits subordinate to workers' compensation benefits, and appeal of the decision, as follows:

"45-9-102.

(a) Any law enforcement officer or jailer who becomes physically disabled, but not permanently disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty and caused by a willful act of violence committed by a person ~~other than a fellow employee~~ shall be entitled to receive compensation as provided in this Code section. Any firefighter who becomes physically disabled, but not permanently disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty while fighting a fire shall be entitled to receive compensation as provided in this Code section. The compensation shall be paid to eligible applicants by the commission from funds appropriated to the commission for such purpose.

(b) Except as otherwise provided in this part, any law enforcement officer, jailer, or firefighter injured in the line of duty as provided in subsection (a) of this Code section shall receive monthly compensation from the department in an amount equal to such person's regular compensation for the period of time that the law enforcement officer, jailer, or firefighter is physically unable to perform the duties of his or her employment; provided,

however, that such benefits provided pursuant to this Code section for injuries resulting from a single incident shall not be granted for more than a total of 12 months. For purposes of this subsection, the regular compensation of a volunteer firefighter covered under subparagraph (2)(B) of Code Section 45-9-101 shall be deemed to be the Georgia average weekly earnings of production workers in manufacturing industries for the immediately preceding calendar year as published by the Georgia Department of Labor. A law enforcement officer, jailer, or firefighter shall be required to submit to the department satisfactory evidence of such disability. A volunteer firefighter shall not be considered disabled once he or she is able to perform the duties of his or her regular employment or equivalent thereof.

(c) Benefits made available under this Code section shall be subordinate to any workers' compensation benefits, disability, and other compensation benefits from the person's employer which the law enforcement officer, jailer, or firefighter is awarded and shall be limited to the difference between the amount of workers' compensation benefits and other compensation benefits actually paid and the amount of the law enforcement officer's, jailer's, or firefighter's regular compensation; provided, however, that benefits shall never exceed the person's regular compensation minus the maximum weekly workers' compensation benefit level for that person whether or not workers' compensation is available. For the purposes of this subsection, the regular compensation of a firefighter covered under subparagraph (2)(B) of Code Section 45-9-102 shall be deemed to be the Georgia average weekly earnings of production workers in manufacturing industries for the immediately preceding calendar year as published by the Georgia Department of Labor.

(d) A law enforcement officer, jailer, or firefighter who collects benefits pursuant to this Code section shall not be entitled to any benefits under Code Section 45-7-9.

(e) A law enforcement officer, jailer, or firefighter who is disabled and who receives indemnification under Part 1 of this article as a result of an incident shall not be entitled to any compensation under this Code section for the disability resulting from the same incident. A law enforcement officer, jailer, or firefighter who initially receives benefits under this Code section but who is determined subsequently to be entitled to benefits under Part 1 of this article with respect to the same incident or whose beneficiary is determined subsequently to be entitled to benefits under Part 1 of this article shall be entitled only to the amount equal to the benefits to which the person would be entitled under Part 1 reduced by the total amount of benefits received under this Code section.

(f) After the department, or the commission upon review of a denial by the department, determines that a law enforcement officer or jailer has been temporarily disabled due to a willful act of violence or that a firefighter has been temporarily disabled while fighting a fire and is entitled to indemnification under this part, the department shall be authorized

64 to make the appropriate payments to the temporarily disabled law enforcement officer,
65 jailer, or firefighter.

66 (g) If the department denies a claim, any person seeking benefits pursuant to this part may
67 appeal the department's decision to the commission. Any such appeal shall be filed with
68 the commission within 60 days of receipt of the department's decision and shall identify
69 the errors in the department's decision. Appeals shall be considered by the commission at
70 the commission's semiannual meeting as provided in Code Section 45-9-84."

71 **SECTION 2.**

72 All laws and parts of laws in conflict with this Act are repealed.